IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9052 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgment? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRADHYUMAN SINGH GANGHUBA JHALA

Versus

GUJARAT STATE ROAD TRANSPORT CORPORATION

Appearance:

MR IM PANDYA for the Petitioner.

MRS VASAVDATTA BHATT for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/11/2003

ORAL JUDGEMENT

1. The petitioner has challenged the Award dated 26.8.1997, passed by the Labour Court, Bhuj-Kutch. By the impugned Award, the Labour Court has rejected the Reference of the petitioner-employee, being Reference

(LCG) No.566 of 1996 (old Reference (LCR) No.481 of 1993).

2. The petitioner workman was subjected to departmental enquiry on the ground of misappropriation of certain amount, which he has received, but not accounted towards the payment of tickets which are issued to the passengers. The petitioner has collected fare from 9 passengers, but, in return, he had not issued tickets to any of the aforesaid passengers. After holding enquiry, he was dismissed from service. Ultimately, he has raised the Industrial Dispute, which was referred to the concerned Court, being the Labour Court, Bhuj, for adjudication. In paragraph 4 of the Award, the Labour Court has considered the facts of the case, in detail. The Labour Court has found that the explanation given by the concerned workman that because of dim light and because of indifferent health, he could not issue tickets, is not a defence, which can be believed. The Labour Court has found that while collecting the fare, the petitioner has collected the same without any difficulty, but, at the time of issuing tickets, he has tried to raise the defence that he could not issue the tickets because of dim light and because of indifferent health.

Even the enquiry was found to be in accordance with law. At the relevant time, the workman had put in service of hardly one year and 10 months. Even during such short tenure also, he committed such serious misconduct. The Labour Court has ultimately found that the order of dismissal which is passed by the S.T. Corporation is absolutely correct. Ultimately, considering the evidence on record, the Labour Court has rejected the reference. No infirmity in the said order of the Labour Court is pointed out by Mr.Pandya, learned Advocate for the petitioner. While deciding the matter under Article 226/227 of the Constitution of India, this Court is having very limited jurisdiction. It cannot be said that the Labour Court has committed any error of law or of jurisdiction while rejecting the reference of the present petitioner. In my view, correct view is taken by the Labour Court and no interference of this Court is called for in any manner with the decision of the Labour Court. I do not find any substance in the petition. The petition is accordingly dismissed. Rule is discharged. No costs.

19th November, 2003 (P.B. Majmudar, J.)

***

(apj)